

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JAMES A. BOYD,

Plaintiff,

v.

RICHARD MORGAN and RON VAN
BOENING,

Defendants.

No. C09-1784 BHS/KLS

ORDER DENYING MOTION TO
COMPEL DISCOVERY

Before the court is Plaintiff's Motion to Compel. ECF No. 37. Defendants filed a response (ECF No. 38) and Plaintiff filed a reply (ECF No. 39). Because the parties appear to agree that an additional discovery conference may eliminate the need for court intervention, the motion shall be denied as premature.

DISCUSSION

A party may apply to the court for an order compelling discovery "upon reasonable notice to other parties and all persons affected thereby." Fed. R. Civ. P. 37(a). The motion also "must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make the discovery in an effort to secure the information or material without court intervention." Fed. R. Civ. P. 37(a)(2)(B). In addition, "[a] good faith

1 effort to confer with a party or person not making a disclosure or discovery requires a face-to-
2 face meeting or a telephonic conference.” Local Rule CR 37(a)(2)(A).

3 Although there are some questions as to the nature and extent of prior attempts to comply
4 with Rule 37, the court anticipates that the parties will confer in good faith. To that end, defense
5 counsel is directed to arrange a telephonic conference with the Plaintiff no later than **January**
6 **28, 2011**. If the parties cannot amicably resolve this issue, Plaintiff may file a motion to compel,
7 and shall include a certification stating that their efforts were unsuccessful, and shall identify
8 those areas of disagreement that remain unresolved.
9

10 Accordingly, it is **ORDERED**:

11 (1) Plaintiff’s motion to compel (ECF No. 37) is **DENIED as premature**.

12 (2) The parties are directed to confer and defense counsel shall have a telephonic
13 conference with Plaintiff no later than **January 28, 2011**, as required by Local Rule CR
14 37(a)(2)(A).
15

16 (3) The Clerk of the Court shall send a copy of this Order to Plaintiff and to counsel
17 for Defendants.

18 DATED this 11th day of January, 2011.
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21 Karen L. Strombom
22 United States Magistrate Judge
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